

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

NEXTGEN PAIN ASSOCIATES & REHAB and
NEXTGEN DIAGNOSTICS (as Assignees of
Nada Taleb),

Plaintiffs,

vs.

LIBERTY MUTUAL INSURANCE
COMPANY,

Defendant.

Civil Action No. _____

Removed from
6th Judicial Circuit Court
18-168218-NF

NOTICE OF REMOVAL

Liberty Mutual Insurance Company (“Liberty Mutual”), by its attorneys SMITH & BRINK and LAW OFFICES OF CHRISTINE GREIG, hereby removes this action from the 6th Judicial Circuit Court, State of Michigan, where it is now pending, to the United States District Court for the Eastern District of Michigan pursuant to 28 U.S.C. § 1441(b). In support of its Notice of Removal, Liberty Mutual states as follows:

1. On or about September 4, 2018, NextGen Pain Associates & Rehabilitation LLC (“NextGen Pain”) and NextGen Diagnostics LLC (“NextGen Diagnostics”) (collectively, “Plaintiffs”) filed their Complaint, Docket No. 18-168218-NF, in the 6th Judicial Circuit Court, State of Michigan.

2. The Summons and Complaint were served on Liberty Mutual on November 26, 2018 via certified mail.

3. Liberty Mutual's Notice of Removal is timely because it is filed within thirty (30) days "after the receipt by the defendant . . . of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based" 28 U.S.C. § 1446(b)(1).

4. The Summons and Complaint are annexed hereto at Exhibit A and constitute all process, pleadings, and orders served upon Liberty Mutual to date with respect to this matter.

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

6. Liberty Mutual is a corporation duly organized under the laws of the Commonwealth of Massachusetts with its principal place of business in Boston, Massachusetts.

7. Based on documents filed with the State of Michigan, NextGen Pain is a limited liability company organized under the laws of the State of Michigan with its principal place of business in Dearborn, Michigan. *See* Exhibit B.

8. Upon information and belief, NextGen Healthcare PLLC ("NextGen Healthcare") is the member of NextGen Pain.

9. Based on documents filed with the State of Michigan, NextGen Healthcare is a professional limited liability company organized under the laws of the State of Michigan with its principal place of business in Dearborn, Michigan. *See* Exhibit C.

10. Upon information and belief, Daoud Faraj (“Faraj”) is the member of NextGen Healthcare PLLC.

11. Faraj is a citizen of the state of Michigan.¹

12. Upon information and belief, Faraj is the only member of NextGen Healthcare.

13. Through Faraj, NextGen Healthcare is a citizen of the state of Michigan.

14. Through NextGen Healthcare, NextGen Pain is a citizen of the state of Michigan.

15. Based on documents filed with the State of Michigan, NextGen Diagnostics is a limited liability company organized under the laws of the State of

¹ A LEXIS Comprehensive Person Report, which collects public record information into a single report, has been run for Faraj, which indicates that Faraj is domiciled in the State of Michigan. Due to the private and sensitive nature of the information contained in that Report, Liberty Mutual has not attached a copy. However, to the extent the Court requests a copy of the Report, Liberty Mutual will make said Report available for an in-camera review.

Michigan with its principal place of business in Dearborn, Michigan. *See* Exhibit D.

16. Upon information and belief, NextGen Healthcare is the member of NextGen Diagnostics.

17. As set out above, through NextGen Healthcare, NextGen Diagnostics is a citizen of the State of Michigan.

18. Upon information and belief, Plaintiff NextGen Pain does not have any members domiciled in the Commonwealth of Massachusetts.

19. Upon information and belief, Plaintiff NextGen Diagnostics does not have any members domiciled in the Commonwealth of Massachusetts.

20. As no Plaintiff is a citizen of the same state as Liberty Mutual, all Plaintiffs and Liberty Mutual are diverse from each other.

21. The amount in controversy between the parties concerning the medical bills being claimed as personal injury protection (PIP) benefits under Michigan's No-Fault Act, MCL 500.3101 *et seq.*, is \$151,630.16. *See* Exhibit A (Complaint).

22. As such, the amount in controversy exceeds \$75,000.

23. As the parties are citizens of different states and as the amount in controversy exceeds the sum of \$75,000, this Court has diversity jurisdiction over this matter.

24. This Court also has supplemental jurisdiction “over all other claims that are so related to the claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367(a).

25. The within Notice of Removal will be filed with the Clerk of the 6th Judicial Circuit Court, State of Michigan, as required by 28 U.S.C. § 1446(d), and copies of the same will be served upon counsel for Plaintiffs.

26. Liberty Mutual hereby demands a trial by jury on the claims at issue in the Complaint.

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted,

SMITH & BRINK

/s/ Kevin J. Peters

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Attorneys for Defendant

Liberty Mutual Insurance Company

Dated: December 18, 2018

CERTIFICATE OF SERVICE

I, Kevin J. Peters, hereby certify that on December 18, 2018, I electronically filed the foregoing papers with the Clerk of the Court using the ECF system. I hereby certify that I have mailed a copy of the foregoing document and all exhibits thereto to the following via United States First-Class Mail to:

Joshua D. Hammons
At Law Group
3 Parklane Blvd. West Tower, Suite 1500
Dearborn, MI 48126

I further certify that I have filed a copy of the foregoing with the Clerk of the 6th Judicial Circuit Court, State of Michigan.

Respectfully submitted,

SMITH & BRINK

/s/ Kevin J. Peters

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